

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

11 CV. 2200

GILBERTO VARGAS

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

-against-

CITY OF NEW YORK ; NEW YORK CITY POLICE

DEPARTMENT 60 th PRECENT

POLICE OFFICER ,TOM A STANTEN SHIELD #2260 ;

POLICE OFFICER ,NICHOLAS MASON SHIELD #6995 ;

POLICE OFFICER ,JOHN/JANE DOES 1-8,

Jury Trial: ☒ Yes ☐ No  
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

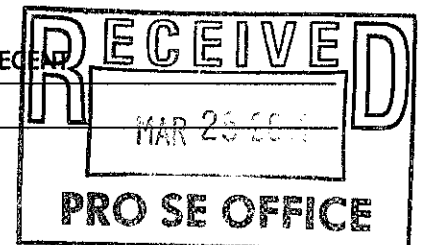
I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name GILBERTO VARGAS  
Street Address 161 BUSH STREET  
County, City KINGS ; BROOKLYN  
State & Zip Code NEW YORK 11231  
Telephone Number (718) 669-3188

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name NEW YORK CITY POLICE DEPARTMENT 60 th PRECENT  
Street Address WEST 8 th STREET



County, City KINGS ; BROOKLYN

State & Zip Code NEW YORK 11224

Telephone Number \_\_\_\_\_

Defendant No. 2 Name POLICE OFFICER ,TOM A STANTEN SHIELD #2260 ;

Street Address WEST 8 th STREET

County, City KINGS ; BROOKLYN

State & Zip Code NEW YORK 11224

Telephone Number \_\_\_\_\_

Defendant No. 3 Name POLICE OFFICER ,NICHOLAS MASON SHIELD #6995 ;

Street Address WEST 8 th STREET

County, City KINGS ; BROOKLYN

State & Zip Code NEW YORK 11224

Telephone Number \_\_\_\_\_

Defendant No. 4 Name POLICE OFFICER ,JOHN/JANE DOES 1-8,

Street Address WEST 8 th STREET

County, City KINGS ; BROOKLYN

State & Zip Code NEW YORK 11224

Telephone Number \_\_\_\_\_

## II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (*check all that apply*)

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? false arrest , excessive use of force

assault , battery and other tortious conduct cognizable under federal and state law .

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship \_\_\_\_\_

Defendant(s) state(s) of citizenship \_\_\_\_\_

## III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events.

You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? AT 2945 WEST 23rd STREET COUNTY OF KINGS, STATE OF NEW YORK

B. What date and approximate time did the events giving rise to your claim(s) occur? APRIL 17, 2010 AT APPROXIMATELY 7:23 PM

C. Facts: ON THE ABOVE DATE, TIME AND PLACE; I WAS APPROACHED BY (4) UNDERCOVER OFFICERS AS I WAS EXITING MY GRANDMOTHERS PLACE OF RESIDENCES; THE OFFICER ASKED FOR MY ID. I SHOWED THE OFFICERS MY ID THEN TOLD THE OFFICER THAT I JUST LEFT MY GRANDMOTHERS APARTMENT. THEN I SEEN MY NIECE AND TRIED TO CALL HER OVER TO VERIFY. THATS WHEN THE OFFICER PUT ME IN HANDCUFFS. ONCE IN HANDCUFFS AND PUT IN THE VAN I INFORMED THE OFFICERS THAT I NEEDED MY INSULIN THE FEMALE OFFICER TOLD ME "SINCE WHEN DO CRACKHEADS USE INSULIN" UPON GETTING TO THE 60th PRECENT; I WAS THE LAST TO GET OUT OF THE VAN I WAS ESCORED TO A ROOM ON THE WAY TO THAT ROOM I GOT PUNCHED IN MY FACE FROM BEHIND I THEN DROPPED TO THE FLOOR TO TRY AND PROTECT MYSELF THAT IS WHEN I RECEIVED MORE KICKS AND PUNCHIES TO MY HEAD AND BODY, THE HOLD TIME I WAS HANDCUFFED. AFTER I WAS PLACED IN A HOLDING CELL I ASKED THE OFFICER WHAT I WAS BEING CHARGED WITH AND HE TOLD ME "TRESPASSING IS ONE OF THE CHARGIES".

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

#### IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. I HAD CUTS ON MY HEAD, ARMS AND BRUISES ON MY LOWER BACK. I WAS PLACED IN A HOSPITAL FOR MY DIABETES AND THE INJURIES TO MY HEAD, ARMS AND LOWER BACK. I STILL GET MASSIVE HEADACHES AND PAIN TO MY LOWER BACK IN WHICH I STILL RECEIVE PILLS FOR THE PAIN.

**V. Relief:**

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. 1. AN ORDER AWARDING COMPENSATORY AND OTHER

DAMAGES TO GILBERTO VARGAS IN AN AMOUNT TO BE DETERMINED AT TRIAL;

2. AN ORDER AWARDING PUNITIVE DAMAGES IN AN AMOUNT TO BE DETERMINED AT TRIAL;

3. AN ORDER DIRECTING SUCH OTHER AND FURTHER RELIEF AS THE COURT MAY DEEM JUST AND PROPER

TOGETHER WITH ANY COSTS AND DISBURSEMENTS OF THIS ACTION.

**I declare under penalty of perjury that the foregoing is true and correct.**

Signed this 22 day of FEBRUARY, 2011.

Signature of Plaintiff GILBERTO VARGAS

Mailing Address 161 BUSH STREET APT#5B  
BROOKLYN, NEW YORK 11321

Telephone Number 718-669-3188

Fax Number (if you have one) \_\_\_\_\_

**Note:** All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

**For Prisoners:**

I declare under penalty of perjury that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: \_\_\_\_\_

Inmate Number \_\_\_\_\_

**NOTICE OF CLAIM**

RECEIVED  
CLERK OF SUPREME COURT  
APR 25 12 14:20  
In the Matter of the Claim of

GILBERTO VARGAS,

-against-

THE CITY OF NEW YORK

PLEASE TAKE NOTICE that the undersigned claimant makes claim and demand against the City of New York as follows:

1. Name and address of claimant:

Gilberto Vargas  
161 Bush Street  
Apt. 5B  
Brooklyn, NY 11231

2. The nature of the claim:

Claim for injuries sustained by claimant as a result of intentional conduct by New York City Police Officers who falsely arrested, assaulted, battered, and maliciously prosecuted claimant. The City of New York is vicariously liable because the police officers were acting within the scope of their employment at the time that they committed the aforesaid torts.

3. The time when, the place where, and the manner in which the claim arose:

On April 17, 2010, in the rear of 2945 West 23<sup>rd</sup> Street, Brooklyn, New York, at approximately 7:15 p.m., four male officers of the Brooklyn South Narcotics Division falsely arrested claimant and assaulted and battered him by searching him without legal justification and handcuffing him excessively tight causing pain and bruising.

A short time later, a police van arrived. Officers put claimant into the van and drove off to the precinct. On the way, claimant, a diabetic, told the female officer who was sitting in the passenger seat that he was going to need his insulin. The female officer said to the van's driver that "these crack heads are now claiming that they are diabetics." Claimant told the female officer that he was not a crack head and criticized her for calling him one.

Approximately 30 minutes after he was arrested, the van arrived at the 60<sup>th</sup> Precinct and claimant was brought inside and put near a cell. The four officers who initially arrested claimant, in retaliation for claimant's criticism of the female officer who called him a crack head, assaulted and battered claimant while the female officer watched.

The officers, acting in concert, held claimant's handcuffed arms and punched him in the face approximately three times causing him to fall to the ground. While claimant was on the ground, the officers kicked him several times in his body and, when they finished beating him, threw him into a cell.

The four officers, along with Officer Tom Stanten, are currently maliciously prosecuting claimant in Kings County Criminal Court. The docket number is 2010KN030807.

4. The items of damage or injuries claimed are:

Claimant sustained injuries to his emotional and physical well-being, was deprived of his liberty, missed classes at technical school, and incurred medical expenses. The full extent of claimant's damages has not yet been determined.

The undersigned claimant presents this claim for adjustment and payment. Unless it is adjusted and paid within the time provided by law from the date of the presentation, the claimant intends to commence an action on the claim.

**VERIFICATION**

GILBERTO VARGAS swears that this notice of claim is true.

  
\_\_\_\_\_  
GILBERTO VARGAS

Sworn to on 5/13/10

  
\_\_\_\_\_  
NOTARY PUBLIC

**RICHARD J. CARBINALE**  
NOTARY PUBLIC, State of New York  
No. 02CA6046513  
Qualified in Kings County  
Commission Expires Aug. 14, 2010